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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues prior to the submission of the seventh periodic report of Mexico due in 2016*

At its thirty-eighth session (A/62/44, paras. 23 and 24), the Committee against Torture established a new optional procedure, consisting of the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations[1]

Articles 1 and 4

1. With reference to the Committee's previous concluding observations (CAT/C/MEX/CO/5-6, para. 8), please provide updated information on the measures taken by the State party to define and punish the offence of torture in its criminal legislation, both at the federal level and in each of the federal entities, in accordance with the provisions of articles 1 and 4 of the Convention.[2] If such measures have not yet been adopted, please explain why.

* Approved by the Committee at its fifty-second session (28 April to 23 May 2014).

[1] Paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee (CAT/C/MEX/CO/5-6).

[2] A/HRC/WG.6/17/MEX/1 and Corr.1, para. 82; A/HRC/WG.6/17/MEX/3, paras. 7, 25 and 26; CAT/C/MEX/CO/5-6/Add.1, para. 43.

Article 2[3]

2. In accordance with the recommendations made by the Committee in its previous concluding observations (paras. 9 and 10), please provide updated information on measures taken to ensure that all persons deprived of their liberty have the benefit, in practice and from the outset of their detention, of all fundamental legal safeguards, including the right to access a lawyer, to have an independent medical examination, to promptly notify a family member or third party of their detention, to be brought before a judge without delay and to challenge the lawfulness of their detention.[4] Do persons deprived of their liberty enjoy access to free legal assistance if they require it? Please also indicate the measures that have been adopted to ensure that detention registers are rigorously maintained.[5] What measures have been put in place to restrict the use of arrest in flagrante delicto to the exact time when an offence is being committed and put an end to the use of arrest in quasi-flagrante delicto? Please provide information on the measures taken to ensure the proper identification of members of the security forces and their vehicles.

3. With regard to the previous concluding observations (para. 17), please provide information on the measures adopted to ensure that medical examinations of detainees are thorough and impartial. What measures have been taken to ensure that medical experts conducting examinations use forms that are in line with annex IV of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) and which include the experts' interpretation of their findings?[6]

4. Please provide information on the measures taken by the State party to support the operation of the National Human Rights Commission as the national mechanism for the prevention of torture. Has the possibility of increasing the mechanism's staffing been considered? Please provide information on actions taken by the State party in response to the recommendations issued by the mechanism for the prevention of torture.[7]

5. With reference to the Committee's previous concluding observations (para. 13), please provide data, disaggregated by age and ethnic origin or nationality of the victim, on the number of complaints, investigations, convictions and sentences handed down for gender-based violence, including domestic violence and femicide, since the consideration of the combined fifth and sixth periodic reports in November 2012. Please also provide information on any measures adopted, including legislative measures, to address the concerns expressed by the Committee in relation to impunity for such offences and the inadequate application of the legal framework by many states.[8]

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[3] The issues raised under article 2 may also relate to other articles of the Convention, such as article 16. As indicated in paragraph 3 of general comment No. 2 (2007), on the implementation of article 2 by States parties, "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter 'ill-treatment') under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. […] In practice, the definitional threshold between ill-treatment and torture is often not clear." See also chapter V of the general comment.

[4] CAT/C/MEX/CO/5-6/Add.1, paras. 10–79.

[5] Ibid., para. 129.

[6] A/HRC/WG.6/17/MEX/1 and Corr.1, para. 85; A/HRC/WG.6/17/MEX/3, para. 43.

[7] A/HRC/WG.6/17/MEX/3, paras. 7 and 29.

[8] A/HRC/WG.6/17/MEX/1 and Corr.1, paras. 128–130, 135 and 137–139; A/HRC/WG.6/17/MEX/3, paras. 46 and 47.

6. Please provide updated information, disaggregated by the age, gender and ethnic origin or nationality of the victim, on the number of complaints, investigations, prosecutions, convictions and sentences handed down in cases of trafficking in human beings since the consideration of the State party's previous report. Please also provide additional information on:

(a) Implementation of the General Act on the Prevention, Punishment and Elimination of Offences of Trafficking in Human Beings and the Provision of Protection and Assistance for Victims, and of any other measure adopted to prevent, combat and punish trafficking in human beings;[9]

(b) Measures adopted to ensure that victims of trafficking in human beings have access to effective remedies and reparation.[10] Indicate whether any identification and referral mechanisms have been established for victims of human trafficking who might be detained in the State party's migrant holding centres;[11]

(c) The signature of any bilateral or subregional agreements with the countries concerned, including neighbouring countries, to prevent and combat trafficking in human beings.

Article 3

7. Please provide detailed statistics on the number of asylum requests received during the period under review, the number of requests accepted and the number of applicants whose requests were accepted because they had been tortured or would be at risk of torture if they returned to their country of origin. Include information, disaggregated by gender, age and country of origin, on the number of persons who have been returned, extradited or expelled since the consideration of the previous report. Please provide detailed information on the reasons for the returns and a list of the countries to which the persons were returned. Provide updated information on the type of appeal mechanisms that exist, on any appeals that may have been lodged and on the outcomes of such appeals.[12]

8. Please indicate how many cases of return, extradition and expulsion the State party dealt with during the period under consideration by accepting or offering diplomatic guarantees or similar assurances. What was the minimum content of these assurances or guarantees, whether offered or accepted, and what subsequent supervisory measures were taken in these cases?

Articles 5, 6, 7, 8 and 9

9. In the light of the previous concluding observations (para. 23), please indicate what legislative or other measures have been adopted to implement the provisions of article 5 of the Convention. Are acts of torture considered in national legislation to constitute offences over which the State exercises universal jurisdiction irrespective of where they take place and of the nationality of the perpetrator or the victim? Please provide relevant examples of prosecutions relating to such offences.

[9] A/HRC/WG.6/17/MEX/1 and Corr.1, paras. 77–79 and 81; A/HRC/17/WG.6/3, para. 14.
[10] A/HRC/WG.6/17/MEX/1 and Corr.1, para. 80; A/HRC/WG.6/17/MEX/3, para. 14.
[11] CAT/C/MEX/CO/5-6, para. 21.
[12] A/HRC/WG.6/17/MEX/1 and Corr.1, para. 118.

10. Please inform the Committee of any extradition treaties concluded with other States parties and indicate whether these instruments cover offences subject to extradition as established in article 4 of the Convention.

11. Please indicate what treaties or agreements on mutual judicial assistance have been concluded between the State party and other entities, such as countries, courts or international institutions, and whether in practice such agreements have resulted in the transfer of evidence relating to proceedings having to do with torture or ill-treatment. Please provide examples.

Article 10

12. In connection with the previous concluding observations (para. 25), please provide updated information on the training programmes on human rights and the prohibition of torture administered by the State party with a view to ensuring that all civil servants, and members of the armed forces, police officers and other law-enforcement personnel in particular, are well versed in the provisions of the Convention and aware that violations will not be tolerated and will be investigated, and that those responsible will be prosecuted.[13] In addition, please state whether the State party has developed a methodology for assessing the impact of the training programmes and their effectiveness in reducing the number of cases of torture and ill-treatment. If such a methodology exists, provide information about its content and application.

13. Please provide updated information on training programmes designed to equip judges, prosecutors, forensic physicians and medical personnel who deal with detainees to detect and document the physical and psychological effects of torture. Do these programmes include specific training about the Istanbul Protocol?[14]

Article 11

14. Please describe the procedures established to ensure the implementation of article 11 of the Convention and indicate which norms, instructions, methods and practices or provisions relating to detention have been adopted since the consideration of the previous periodic report.[15] Please also indicate how frequently these procedures are reviewed.

15. Please provide information on measures adopted by the State party to eliminate the use of *arraigo* (pre-charge detention) from its legislation and its practices at both the federal and the state levels (para. 11).[16]

16. In connection with the previous concluding observations (para. 19), please provide updated statistics, disaggregated by gender, age group and ethnic origin or nationality, on the number of pretrial detainees and prisoners serving sentences and on the occupancy rate of all detention facilities. Please inform the Committee of any measures taken to address the overcrowding and unhygienic conditions observed in the State party's prisons.[17] Please provide information on the results of the application of the Prison Administration Strategy

[13] A/HRC/WG.6/17/MEX/1 and Corr.1, paras. 70 and 71; A/HRC/WG.6/17/MEX/3, para. 6; CAT/C/MEX/CO/5-6/Add.1, paras. 38–42.

[14] A/HRC/WG.6/17/MEX/1 and Corr.1, para. 85; CAT/C/MEX/CO/5-6/Add.1, para. 130.

[15] A/HRC/WG.6/17/MEX/1 and Corr.1, paras. 69 and 141; A/HRC/WG.6/17/MEX/3, paras. 45 and 54.

[16] A/HRC/WG.6/17/MEX/1 and Corr.1, para. 65 and 66; A/HRC/WG.6/17/MEX/3, paras. 24, 42 and 43.

[17] A/HRC/WG.6/17/MEX/3, para. 8.

for 2008–2012. Does the State party have a new strategy for this area? What measures have been adopted to eliminate situations of inmate self-rule in prisons?[18] Please provide information on the frequency of acts of violence among inmates including, in particular, cases that may have involved negligence on the part of prison staff, and on the number of complaints filed in this regard. What preventive measures have been adopted?[19]

17. Please provide statistics on the number of prisoner deaths during the period under review, disaggregated by place of detention, gender, age and ethnic origin or nationality of the deceased and by cause of death. Please provide detailed information on the outcomes of the investigations into these deaths and on the measures taken to prevent similar occurrences. Indicate whether compensation has been awarded to family members in any of the cases.

Articles 12 and 13

18. Please provide statistical information, disaggregated by gender, age, ethnic origin or nationality and place of detention, including migrant holding centres, on the number of complaints registered in connection with acts of torture or ill-treatment during the period under review.[20] How many ex officio investigations have been opened in alleged cases of torture and ill-treatment?[21] Provide information on judicial proceedings and disciplinary procedures initiated and on the convictions, criminal sentences and disciplinary measures imposed.[22] In this connection, provide examples of relevant judicial cases or resolutions.

19. With regard to the previous concluding observations (para. 12), please provide updated information on progress made in clarifying cases of enforced disappearances apparently committed by members of the security forces or by criminal groups or individuals acting with the direct or indirect support of Government officials.[23] Please comment on reports alleging a lack of diligence in the investigation of such cases. Please also provide updated information on the existing legal framework for the protection of all persons from enforced disappearance.[24] Has work been completed on the creation of a national database of disappeared persons and unidentified human remains?[25] Does the database include cases of enforced disappearance of migrants?[26]

20. Pursuant to the Committee's recommendation in its previous concluding observations (para. 18), please indicate what legislative measures have been adopted by the State party to preclude the possibility of the military courts having jurisdiction over cases involving human rights violations and offences against civilians in which military personnel are involved.[27] Please indicate the number of cases of human rights violations allegedly committed by members of the military that have been investigated and/or tried in the military courts during the period under review.[28]

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[18] A/HRC/WG.6/17/MEX/1 and Corr.1, para. 75.
[19] A/HRC/WG.6/17/MEX/3, para. 44.
[20] A/HRC/WG.6/17/MEX/1 and Corr.1, para. 83; A/HRC/WG.6/17/MEX/3, paras. 44 and 58.
[21] A/HRC/WG.6/17/MEX/3, para. 56.
[22] CAT/C/MEX/CO/5-6/Add.1, paras. 133–138.
[23] A/HRC/WG.6/17/MEX/3, para. 40.
[24] A/HRC/WG.6/17/MEX/1 and Corr.1, para. 86; A/HRC/WG.6/17/MEX/3, paras. 17 and 26.
[25] A/HRC/WG.6/17/MEX/1 and Corr.1, para. 88; A/HRC/WG.6/17/MEX/3, para. 40.
[26] A/HRC/19/58/Rev.1, paras. 355–357; CAT/C/MEX/CO/5-6, para. 21.
[27] A/HRC/WG.6/17/MEX/1 and Corr.1, paras. 62–64; A/HRC/WG.6/17/MEX/3, paras. 5, 57 and 59; CAT/C/MEX/CO/5-6/Add.1, paras. 43–46 and 100–105.
[28] CAT/C/MEX/CO/5-6/Add.1, paras. 138–147.

21. With reference to the Committee's previous concluding observations (para. 16), please provide updated information on any measures adopted by the State party to establish an effective, independent and accessible system for receiving complaints that guarantees the prompt, thorough and impartial investigation of acts of torture and ill-treatment. Has a centralized register for complaints of torture and ill-treatment been established?

Article 14

22. In the light of the Committee's previous concluding observations (para. 24), and in accordance with the Committee's general comment No. 3, on the implementation of article 14 by States parties (CAT/C/GC/3, paras. 45 and 46), please provide comprehensive information on measures of redress and compensation, including rehabilitation measures, ordered by courts and effectively provided to victims of torture or their family members since the consideration of the previous periodic report. Such information should include the number of claims submitted, the number of claims settled and the amounts awarded and actually paid in each case. Please also provide information on the implementation of the Victims Act of 9 January 2013.[29] When are the regulations implementing this law to be adopted?

23. Please provide information on reparation programmes, including programmes for the treatment of physical and psychological trauma, and on other forms of rehabilitation provided to victims of torture and ill-treatment, and also on the allocation of adequate resources to ensure the efficient operation of these programmes. Please provide information on the level of cooperation with specialized non-governmental organizations that exists in this area, and indicate whether the State party provides financial and/or other forms of support for their efficient operation.

Article 15

24. With reference to the Committee's previous concluding observations (para. 15), please provide information on specific measures adopted to ensure that the principle of inadmissibility of evidence obtained through torture is observed in practice.[30] Please include examples of cases that have been dismissed by the courts because evidence or testimony obtained through torture or ill-treatment was submitted.[31]

Article 16

25. In the light of the previous concluding observations (para. 14), please provide updated information on the steps taken by the State party to guarantee the safety and physical integrity of human rights defenders and journalists by protecting them against any acts of intimidation or violence that they may face in the course of their activities.[32] How many attacks on human rights defenders and journalists were registered during the period under review? Please include statistics, disaggregated by gender, age and ethnic origin or nationality of the victim, on the number of complaints filed and the number of

[29] A/HRC/WG.6/17/MEX/1 and Corr.1, paras. 9, 72 and 73; A/HRC/WG.6/17/MEX/3, paras. 28, 59 and 60; CAT/C/MEX/CO/5-6/Add.1, paras. 119–124.

[30] CAT/C/MEX/CO/5-6/Add.1, paras. 63–72.

[31] A/HRC/WG.6/17/MEX/3, paras. 4, 56 and 59.

[32] A/HRC/WG.6/17/MEX/1 and Corr.1, paras. 92, 93, 95 and 96; A/HRC/WG.6/17/MEX/3, paras. 15, 35 and 67–70; CAT/C/MEX/CO/5-6/Add.1, paras. 148–208.

investigations, prosecutions and convictions. Please also give an assessment of the effectiveness of the protection mechanism for human rights defenders and journalists. What degree of coordination exists between the mechanism and the states? Indicate what human, financial and material resources are allocated to this body.[33] Please provide information on any investigations conducted in connection with the following cases:

(a) The abduction and subsequent killing of Herón Sixto López, a member of the Centro de Orientación y Asesoría a Pueblos Indígenas (guidance and support centre for indigenous peoples), on 15 July 2013 in the State of Oaxaca;[34]

(b) The killing of Alberto López Bello, a journalist with the newspaper *El Imparcial*, on 17 July 2013, in the State of Oaxaca;[35]

(c) The abduction and subsequent killing of Arturo Hernández Cardona, Félix Rafael Bandera Román and Ángel Román Ramírez, members of the organization Unidad Popular (UP) de Iguala, on 30 May 2013 in the State of Guerrero.

26. Please indicate what measures have been taken during the period under review to deal with violence perpetrated by organized crime in the State party. In addition, please provide information on the armed mobilization of civilian groups ("self-defence forces") against organized crime cartels, particularly in the states of Guerrero and Michoacán. What steps has the State party taken to contain the proliferation of self-defence forces and protect the population from the abuses of such groups? Provide detailed information on the legalization process announced in January 2014 that will allow the self-defence forces to be incorporated into rural defence bodies.

27. Please indicate what measures have been adopted to ensure that corporal punishment of children is expressly prohibited in all settings, particularly in the home, in day-care facilities and in reception centres for minors.

Other questions

28. Please clarify the content and effects of the decision adopted by the Supreme Court of Mexico in the contradictory rulings case No. 293/2011. How does this decision affect the implementation of the provisions of the Convention in the State party?[36]

General information regarding other measures and developments relating to the implementation of the Convention in the State party

29. Please provide detailed information on any other legislative, administrative, judicial or other measures adopted since the consideration of the previous periodic report to implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes and, in particular, resources allocated and statistical data or any other information that the State party may consider relevant.

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[33] A/HRC/WG.6/17/MEX/1 and Corr.1, paras. 94 and 97; A/HRC/WG.6/17/MEX/3, para. 68.

[34] OHCHR office in Mexico, "OHCHR condemns offences against human rights defender and journalist in the State of Oaxaca", press release, 19 July 2013.

[35] Ibid.

[36] A/HRC/WG.6/17/MEX/3, para. 23.